

BUBONIC PLAGUE NOT A CIVIL COMMOION

Transatlantic Insurance Co. Must Pay the Loss.

TWO INSURANCE COMPANIES WIN
THEIR POLICIES EXEMPTED
THEM FROM FIRES BY
"CIVIL AUTHORITY."

A Slight Difference in Wording
Turns the Scale in a Large
Legal Controversy.

The Transatlantic Fire Insurance company will have to pay for the building of Yee Wo Chan & Co. burned during the bubonic plague visitation. Such was the decision of the supreme court handed down yesterday.

The burning of the building, with many others, was purely accidental. The fire was started by the board of health for the purpose of destroying certain infected buildings. But the conflagration spread beyond the bounds desired and became uncontrollable. A whole district was wiped out and Chinatown went up in smoke. The multitude engaged in tumult and flight for life and it was out of possibility to arrest the fury of the flames.

The mercantile establishment of Yee Wo Chan & Co. was among the ones destroyed in this accidental manner and it having been insured for \$5,000 by the Transatlantic company, the unfortunate firm at once set about to collect the policy. The company refused to pay and a suit was entered and has now terminated in the higher court with a result favorable to the local firm.

The main contention of the company hinged upon the words, "civil commotion," which was among the causes of fire exempted in its policy. It held that the cause of this fire was civil commotion. The court places itself on record as holding a contrary view. Following is the court's view in part:

"In an epidemic of bubonic plague the health authorities set fire to certain buildings declared to be infected, from which the fire spread by accident to other buildings, including the plaintiff's store, containing goods covered by a policy of insurance. Held that the circumstances set forth in the opinion did not show that the loss was caused by a civil commotion so as to exempt the insurers under the clause in the policy that they should not be liable for any loss or damage caused by civil commotion."

The policy contains a clause to the effect that the insurer shall not be liable for any loss or damage caused by means of invasion, insurrection, riot, civil commotion or military or usurped power.

After reciting the facts of the plague visitation, and the burning of infected buildings and the accidental spreading of the flames, the opinion launches forth into a nice discussion of the question of whether or not the deeds enacted constituted a civil commotion. Such a state is described as "the wild and irregular action of many persons assembled together." To be sure, there was some tumult after the fire started to spread, says the court, but that did not cause the fire, and the excitement was the result of the fire rather than the cause of it. The epidemic was not a civil commotion.

The court conjectures that a fire of this kind may be so unusual as to not be contemplated by the insurance company. As in this case the defendant company chose to hinge its whole case on the civil commotion contention the court sets it aside and finds that the company is liable purely and simply on the guarantee against loss or damage by fire.

The decision was delivered by Chief Justice Frear, Associate Justices Galbraith and Perry concurring.

Paul Neumann and W. Austin Whitte appeared for the plaintiff, L. A. Thurston and Robertson & Wilder for the defendant.

ABOUT FIRES STARTED BY CIVIL AUTHORITY

Two other cases growing out of the same fire were also decided yesterday by the supreme court. In these the defendant insurance companies won because their policies made exemption for fires ordered by civil authorities. One was against the Lion Insurance company, the plaintiff being represented by J. T. De Bolt, the amount of the policy being \$3,000, and the other was a second policy of Yee Wo Chan for \$5,000 in the Magdenburg Fire Insurance company. The insurance company was in the first case represented by W. R. Castle and P. L. Weaver and in the second by A. G. M. Robertson and L. A. Thurston.

A very different result from an apparently small difference in wording came about in these cases. In one were the words, "civil commotion," the other "by civil authority." Not much difference to the casual reader, especially in reading them in the abstract, but after being threshed out by legal talent and judicial opinion one means "wig" and the other means "lose."

The substance of the decision favoring the insurance companies, both of which are given in one document on account of the nature of the cases being identical, will be found below. The clause exempting the companies from losses caused "by order of any civil authority." This is the syllabus of the

opinion: "Insured property was destroyed by fire which spread from other buildings which had been set on fire by order of the board of health because of infection by bubonic plague. The policy provided that the insurer should not be liable for loss caused directly or indirectly by invasion, insurrection, riot, civil war, or commotion, or military, or usurped power, or by order of any civil authority, or by theft."

"The words 'directly and indirectly' apply in the case of loss caused by order of any civil authority, as well as in the case of loss caused by invasion and the like. Loss caused directly or indirectly by order of a civil authority includes loss of property destroyed by fire which has spread unaided by any independent efficient intervening cause from the buildings which were ordered burned. It is not confined to the loss of the particular buildings intended to be burned."

"To exempt the insurer it is not necessary that the order of the civil authority be lawful and justifiable in the particular case. It is sufficient if the civil authority may lawfully order buildings burned when necessary for purposes within the scope of its duties and in this case acts officially and in good faith and within the apparent scope of its powers."

"Where buildings are set fire by order of a civil authority on account of infection by plague and loss caused by order of any civil authority is excepted, but loss caused by plague is neither insured against nor excepted, the order and not the plague should be regarded as the cause of the loss within the meaning of the policy."

Republicanism means equal rights.
Vote the ticket straight.

MOONLIGHT CONCERT AT MAKEE ISLAND

A public moonlight concert will be given this evening at 7:30 o'clock at Makee Island.

PART I.
Overture—King's Lieutenant.....Titi
Intermezzo—Russian.....Frankie
Selection—Rose of Castile.....Balfie
(a) Nuanua Waipio Kaili ka Ma-
kani.....Miss I. Kellian
(b) Wai Punalau Kaili o Manoa.....
.....Mrs. N. Alapai
PART II.
Selection—The Winner.....Mackie
Serenade—Love in Idleness.....Mac Beth
March—Ma Tiger Lily.....Sloane
Waltz—Waikiki Beach.....Berger
The Star Spangled Banner.

Vote the straight republican ticket.

NEW YORK FOR MCKINLEY.

Odell Says State Will Give Him 100,000 Majority.

NEW YORK, Oct. 27.—Benjamin B. Odell, Jr., secretary of the republican state committee and candidate for the governorship of this state, believes that President McKinley will be re-elected, and not only that, but that President McKinley will carry New York state by 100,000 plurality.

"I understand the Bryan meeting in New York was a bit disappointing," Mr. Odell said.

"How was that?" he was asked.

"In matter of numbers," he replied.

"But then, that can be attributed to the weather. I am surprised that Mr. Bryan did not touch on the money question, for I cannot understand why a candidate should have one platform for the east and another for the west."

"What was your opinion of last night's meeting?"

"It was a splendid affair," Mr. Odell said, with a very satisfied smile. "Very; but I think it indicated that President McKinley will carry New York state by at least 100,000."

The Herald has made a poll of the faculties of the several New England universities and colleges to learn how the professors and instructors will vote on November 6th next. The result will show that there is an overwhelming majority for McKinley. The total number polled was 328—for McKinley 271, for Bryan 20, for Woolley 2, undecided 38, noncommittal 26, will not vote 21.

The total number of professors and instructors in New England and Western institutions whose views were asked, and their combined standing is: Total number polled, 1,017; for McKinley 756, for Bryan 123, for Woolley 23, undecided 64, noncommittal 26, will not vote 25.

MAY BE CONFISCATED.

Believed that British Will Take South African Railroads.

NEW YORK, Oct. 18.—South Africans explain the investigation in progress respecting concessions in the Transvaal as a preliminary measure for the confiscation of the Netherlands railway and other properties, says the Tribune's London correspondent. They assert that some resources must be found for meeting the indemnity claims of the loyalists of Natal and Cape Colony for the destruction of their property and the loss of their cattle and horses.

Land taxes will yield little when the new colonies are impoverished, and the mining industry cannot be bled until it is reorganized and in a flourishing state. The railways are the only assets which can be made available at an early day as the basis for an adjustment of the indemnity claims. The state railway of the Orange River Colony, South Africans say, can be confiscated by military conquest, and the Netherlands Company's property, they believe, will share the same fate, as it was subsidized by the Transvaal government and was the base of the Boer line for military defense.

Vote the straight republican ticket.

FIELD OF POLITICS RAPIDLY WARMING UP

Order in Which the Ballot Will be Printed.

NAMES AS THEY WILL APPEAR

YOUNG DEMOCRATS WILL RECEIVE PRINCE DAVID AT THE PALM TONIGHT.

The Ribband Craze Will End in Sofa Pillows—Great Republican Meeting Thursday Evening.

The following is the ticket in full as it will be printed for the Island of Oahu. All the names listed are given in the alphabetical order in which they will appear on the ballots. Electors ought to familiarize themselves with the names:

General Election—1900.

FOR SENATOR, THIRD SENATORIAL DISTRICT—

For the term beginning Nov. 6, 1900.
ACHI, W. C. (Kale Aki)
AULD, WILLIAM (Ulama Olo)
BIPIKANE, J. W.
BOYD, N. N. (Pape Poe)
BROWN, CECIL (Kikila Balaunu)
CARTER, GEORGE R. (Keoki Kaaka)
CARTER, JOSEPH O. (Keo Kaaka)
CRABBE, CLARENCE S. (Papai)
FERNANDEZ, ABRAHAM (Aberahama Fernandez)
HOLT, JOHN D. (Keoni Holo Olo)
ISENBURG, D. P. R. (Paulo Isenberg Olo)
KALAUOKALANI, D.
KANUHA, DAVID
LILIKALANI, JAMES K.
LILIKALANI, EDWARD K.
PAHIA, FRANK
PUA, SAMUEL K.
ROWE, E. C. (Lo)
WATERHOUSE, HENRY (Hanalei Walakabauki)

General Election—1900.

FOR REPRESENTATIVES, FOURTH DISTRICT—Island of Oahu.

For the term beginning Nov. 6, 1900.
AYLETT, R. W. (Bila Eleka)
BOOTH, CHARLES W. (Kale Koopu)
BUSH, JOHN E. (Aliuene Buki)
CAMARA, J. M. (Keo Kamara)
CLARK, JOSEPH KAUHIOA (Keo Kalaka)
GILFILLAN, A. F.
HAIOLA, P.
HOOGS, W. H. (Bila Huga)
KAILIMAI, W. H.
KALAUOKALANI, DAVID K.
KEIKI, J. W. KEOLA.
KUMALAE, JONAH (Iona Kumalae)
MACFARLANE, E. C. (Makapolena)
MEHETLA, SOLOMON
NAKOOKOO, JNO. K.
QUINN, J. C. (Kimo Kuini)
ROBERTSON, A. G. M. (Anika Robkama)
SPENCER, S. WILLIAM (Ulama)
WISE, JOHN H. (Keoni Waika)

General Election—1900.

FOR REPRESENTATIVES, FIFTH DISTRICT—Island of Oahu.

For the term beginning Nov. 6, 1900.
BROWN, FRANK (Palaneke Balaunu)
COELHO, WILLIAM J. (W. K. Kuelo)
DAMON, SAMUEL M. (Kamu Kaimana)
EMMELT, JOHN (Emaluka)
HARVEY, FRANK R. (Palakiko Have)
HITCHCOCK, H. R. (Hikiki)
HOLT, R. WILLIAM (Ulama Holo)
JOHNSON, ENOCH (Enoka)
KAILUKOU, J. L.
LANE, JOHN C. (Keoni Lane)
MAHOE, S. K.
MAKAINAI, JESSE P.
MARKHAM, GEO. (Keoki Makamu)
MCANDLESS, L. L. (Linekana Ebiwai)
MIKALEMI, H. J. (Makinana)
MOSSMAN, WM. JR. (Mokimans Olo)
PALE, JAMES K.
POEPOE, J. MOKUOAH.
PRENDERGAST, JOHN K. (Kapa-mawaho)

The Young Men's Democratic club will tonight go to the Pali and will there receive Prince David and escort him to Honolulu. There will be a division of Rough Riders, a number of wagonettes, private conveyances and all will carry torches. It will be an interesting cavalcade and quite an innovation in local politics. The young democrats are thoroughly organized now and will be out in force at future meetings.

Democrats, republicans and independents are now wearing hat bands. The democrats led in this matter, the republicans followed and the independents are just beginning to blossom forth in gorgeous ribbons. These ribbons will adorn many a sofa pillow within a few weeks.

The republicans are making great preparations for their monster rally next Thursday. There will be a torchlight procession followed by speaking. The parade will be the most elaborate that the campaign has yet seen.

The democrats are preparing to hold a big celebration on November 5, the night before election. They have also ordered a large number of torches. E. B. McClellan, John Wise and others of that party went on the Kilauea to make a short campaign on Hawaii.

A few errors have been found in the registration lists that may deprive some voter of his right on election day. Per-

Republicanism means equal rights.
Vote the ticket straight.

sons living in one precinct have been found to be registered in another. The number of such errors is very small.

A big republican meeting was held at the Ewa plantation last night. A large number of torches were sent out from the city and the parade was quite a success. The meeting was a gratifying one, assuring the ticket a good majority in that district.

The last rally of the republican campaign will be held next Monday night at the drill shed. The campaign managers predict that this will be by far the largest event of the kind in the history of this memorable political contest. A fine parade and good speakers are promised.

A successful rally by the republicans was held at Makee island last night at Kapiolani park, Waikiki. Good speakers delivered addresses and there was great enthusiasm at every mention of the name of Sam Parker and William McKinley. A number of people from the city were present.

Samuel Parker has flattering reports of his prospects on Kauai.

News from Wailuku tells of lively republican interest at various points on Maui.

The republicans are firing grape and canister this week except on Thursday night, which is their regular night for "Long Toms." Noonday meetings in all parts of the city and scores of small gatherings in the evenings is a program that means victory.

The republicans had a big rally Sunday at Wailupe. There were over 150 people present, including a number of ladies, who added life and brightness to the occasion. Republican orators discoursed on the issues of the day. The party from the city was headed by Sam Parker and included J. H. Boyd, Clarence Crabbe, Chas. Clark and B. H. Wright. There was music and a feast. The Hawaiians present were from the district between Koko Head and Moliili and became very enthusiastic for Parker and the whole republican ticket.

Be a genuine republican. Be a straight ticket republican.

NO TIME LIMIT FOR CLOSING POLLS ELECTION DAY

According to the interpretation of Secretary H. E. Cooper, the Organic Act emphasizes the importance of the right of franchise to such a degree that local election rules of a minor nature become flexible and possibly inoperative. Since the Organic Act grants freedom from arrest and other immunities upon election day, Mr. Cooper holds that a mere time limit in the hours of voting will not be allowed to deprive any man of his vote.

The polls will be kept open until midnight if necessary in order to give every voter a chance to deposit his ballot. Inspectors of election have been instructed to close the polls at any time it may appear that all who have registered in the precinct have voted. They have also been instructed to close the polls at 5 o'clock if there are no voters present offering to deposit their ballots. The secretary further instructs them to keep the polls open as long as there are persons offering to vote, even as late as midnight if necessary.

The reasons for these instructions are that it appears a physical impossibility for all to vote in some of the precincts in the usual time.

A vote for other than the straight republican ticket is a vote lost.

LEPER WANTS DIVORCE.

Kilikina Claims Her Husband Has Failed to Provide.

Kilikina K. K. Kilikina of Kalapapa, Molokai, has begun divorce proceedings against James Moses Kilikina of this city before the circuit court of Honolulu. The libellant is a leper confined at the Molokai settlement and her case is being conducted by Attorney R. D. Mead.

The libel which was filed yesterday sets forth that about the year 1890, in Honolulu, the couple were lawfully married by Father Clement, and that as man and wife the libellant and libellee lived and cohabited together. On March 21, 1893, the wife was taken to the Molokai settlement, she having contracted Chinese leprosy and being incapable of cure.

For further grounds for divorce she alleges that her husband has failed, neglected and refused to provide suitable maintenance and that he is of sufficient means and ability to do so.

For these reasons the bonds of matrimony are asked to be dissolved and the libellant desires such other relief as to the court may seem meet in the premises.

California Manufacturer Here.

D. J. McKay, a member of the manufacturing firm of J. A. Folger & Co. of San Francisco, is among the guests of the Hawaiian. Mr. McKay is here for pleasure and recreation and will visit the various islands in the territory before returning to his home. The concern with which he is connected does a big business here through the local jobbing houses.

Mr. McKay declines to express an opinion on the threatened boycott against drummers. He says, however, that as his establishment is not a dealer, but a manufacturer, it cannot be affected by the action.

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Vote the ticket straight.

THE EXAMINATION OF SCHOOL CHILDREN

Will be Considered Today by Board of Health.

A LONG DEAD-LOCK MAY ENSUE

SOME PROBABILITY THAT NEITHER BOARD MAY RECODE FROM ITS POSITION.

Physicians Generally Stand by Dr. Howard, the Examining Physician, While Laymen Condemn His Course.

The manner of examining the pupils of the public schools, to which the board of education has raised objections, will probably come before the board of health meeting this afternoon. It is said that the members of that body have opinions as stubborn and fixed as those held by the board of education and there may be a deadlock. It is to be hoped that this may be avoided, as it would bring discredit on the community at large.

The physicians generally seem to side with Dr. Howard's plan, with some modifications, but parents are bitter in their expressions against such conduct. Mr. Von Holt's assertion that "the physician who would treat a child of his in that way would have to settle with me," is a fair sample of the way in which the people speak and the feeling they have on the subject.

The following interviews were had by Republican reporters:

Dr. R. P. Myers—Each of the pupils, in my judgment, should be examined separately. In looking for the evidences of leprosy and other diseases of the character found here it is necessary to examine the whole person. It is certainly mortifying to a boy having a disease to have it exhibited before his fellows.

Dr. R. M. Gibson—It is not necessary to examine the boys together. There is no use in doing that. Each one should be stripped singly and separately. A screen at least should be used.

Dr. W. J. Galbraith—Merely stripping the boys to their waists should have no bad influence. Physical imperfections or disabilities are usually detected in advance and these should be subjects for special consideration. There is no necessity for any feeling in the matter on the part of the parents. Stripping the boys all together is a matter of convenience and as a general rule I can see no objection to it.

Dr. W. E. Taylor—It is a matter I know nothing at all about.

Dr. W. H. Mays—In this climate where such things are common the boys as a rule can as well be stripped to the waist in a group, but the examination of the whole person should be done in private, which can be done by raising a screen. Objection to this is rather fastidious in a country like this. It would take an immense amount of time to examine each one separately. Whenever individual pupils object, their sensitiveness ought to be respected.

I. Erick, merchant—It is my opinion that a partition or screen should be used and every boy examined separately. Every stitch of clothing should be removed.

Dr. I. T. McDonald—The whole thing does not amount to a hill of beans. I have nothing to say.

Continue prosperity by voting the straight republican ticket.

CONDENSED TELEGRAMS.

Transport Carlisle City has sailed from Seattle for Manila.

Alfred M. Rose, a veteran of the Mexican war, died at San Rafael, Cal., October 17th, at the age of 75 years.

Captain Elliott of the Fortieth Infantry has captured rebel General Alvarez on the island of Mindanao in the Philippines.

For the Yontsey trip, October 18th, the witnesses were Gardner Wallace, Col. Campbell, S. T. Pence and T. S. Marksbury.

The Order of Railway Telegraphers, which has been in grand council at St. Louis, has adjourned to meet at San Francisco in October, 1901.

The conciliation board of the London Chamber of Commerce will arbitrate the dispute between the lighter men and their employers. A speedy settlement is anticipated.

Five bags of registered mail enclosed in one large pouch have been stolen from Station H, at the corner of Lexington avenue and East Forty-fourth street, in New York.

Mrs. Elizabeth Rhoads has obtained a verdict of \$37,000 against the Metropolitan Street Railway Company of New York for the death of her husband by a car, in July, 1899.

The will of Caleb T. Symmes of Lancaster, Mass., bequeathes \$30,000 to the American Peace Society and a like amount to the Salt Lake Academy for Mormon Children.

Major Matt R. Peterson, U. S. V., died of yellow fever at Las Animas, Cuba, October 17th. His wife killed herself an hour later. The major was a graduate of West Point and was appointed from North Carolina.

Former Governor W. P. Dillingham has been elected United States senator from Vermont. The choice was made by the withdrawal of C. A. Prouty and by the democratic vote, which at first was cast for Seneca Hazelton.

Thomas J. Corcoran of Aspen, Colo., who is riding a wheel from Denver to

Boston, arrived in New York October 18th, averaging 70 miles a day for thirty days. He left Aspen alone on August 14th. A ten-pound baggage roll was his sole encumbrance.

Former Secretary of State John Sherman, who is seriously ill at his residence in Washington, is confined to his bed, suffering from general collapse due to advanced age. Although his condition is considered critical, his death is not regarded as imminent.

The police of Rio Janeiro have arrested an Italian named Angel Manetti, who is known as the friend of Caseiro, who assassinated President Carnot of France, and of Beschi, who killed King Humbert of Italy. Manetti, it is charged, was plotting to take the life of President Campos Salles of Brazil.

President McKinley has definitely promised to visit San Francisco for the launching of the battle ship Ohio, which will take place in April, the exact date to be determined at the president's convenience. A month ago the San Francisco Society of Obisians sent an invitation to President McKinley, asking him to attend the launching. The invitation was upon a gold plate.

The "Society for the Moral and Physical Improvement of Young Men," an organization similar in all respects to the Young Men's Christian Association, was successfully launched in St. Petersburg, October 6th, in a building specially fitted up for the purpose, largely through the personal efforts of Franklin Gavford, the representative of James Stokes, the philanthropist of New York, who has invested a princely fortune in such buildings at London, Paris, Berlin and at Rome.

Vote first for Parker, then for all others on the republican ticket.

JUDGE HUMPHREYS' TRIBUTE.

Expresses His Appreciation of Services of Deputy Clerk Smith.

The efficiency of Fred D. Smith as deputy clerk of the circuit court has received high testimonial from Judge Humphreys in the form of a letter accepting the resignation which had become a matter of record in the court. Following is the letter:

"Chambers of
"A. S. Humphreys, Circuit Judge,
"Honolulu, Oct. 29, 1900.

"My Dear Sir:—Your note of even date, tendering your resignation as fourth clerk of the circuit court, to take effect November 20, A. D. 1900, has been brought to my attention. I regret very much that conditions are such as to have prompted your resignation. I avail myself of this opportunity to express to you my appreciation of the uniform courtesy which has characterized your relations with all who have come in contact with you in your official station.

"Wherever you may go, and in whatever line you may cast your lot, my best wishes will go with you. Your resignation is accepted to take effect as stated by you.

"Very truly yours,

"A. S. HUMPHREYS.

"Clerk Circuit Court, First Circuit.

"To Fred D. Smith, Esq."

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THE VICTORIA HOSPITAL REPORTS FOR TWO MONTHS

Medical report for Victoria Hospital for incurables for August, 1900:

No. of cases carried from July, 16; No. of cases admitted August, 11; total, 27. No. of cases recovered and discharged, 4; No. of deaths, 6; No. carried to September, 17; total, 27.

Cases treated—Phthisis and scrofula, 18; paralysis, 6; locomotor ataxia, 1; heart disease, 2; total, 27.

Causes of death—Phthisis, 4; paralysis, 1; heart disease, 1; total, 6.

F. A. BOWMAN, M. D.

Medical report of Victoria hospital for September, 1900:

No. of cases carried from August, 17; No. of cases admitted September, 7; total, 24. No. of cases improved and discharged, 4; No. of deaths, 1; No. carried to October, 19; total, 24.

Cases treated—Phthisis and scrofula, 13; paralysis, 7; locomotor ataxia, 1; heart disease, 1; cancer, 1; chronic rheumatism, 1; total, 24.

Causes of death—Phthisis, 1.

F. A. BOWMAN, M. D.

Expenditure report of Victoria hospital:

Expenditures for August, 1900:

Medical superintendent and staff, \$323; food, medicines, fuel, servants' wages, etc., \$376.85; total, \$699.85.

Expenditures for September, 1900:

Medical superintendent and staff, \$345; food, medicines, fuel, servants' wages, etc., \$319.44; total, \$664.44.

ENMA M. WILLIS.

Arizona's Population.

WASHINGTON, Oct. 18.—The population of Arizona, as officially announced today, is 122,142, against 59,620 in 1880, an increase of 62,522, or